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**THIS DISPOSITION
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Paper No. 12
CEW

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Microspot USA, Inc.

Serial No. 75/738,233

Stephen F. Heller of Gonsalves & Kozachenko for
applicant.

James Arthur Bruno, Jr., Trademark Examining Attorney,
Law Office 103 (Michael Hamilton, Managing Attorney).

Before Seeherman, Hairston and Walters, Administrative
Trademark Judges.

Opinion by Walters, Administrative Trademark Judge:

Microspot USA, Inc. has filed a trademark
application to register the mark PCDRAFT for "two-
dimensional computer aided design (CAD) software for
personal computers."¹

The Trademark Examining Attorney has issued a final
refusal to register, under Section 2(e)(1) of the

¹ Serial No. 75/738,233, in International Class 9, filed June 28, 1999,
based on use of the mark in commerce, alleging first use and use in
commerce as of September 27, 1997.

Trademark Act, 15 U.S.C. 1052(e)(1), on the ground that applicant's mark is merely descriptive of its goods.

Applicant has appealed. Both applicant and the Examining Attorney have filed briefs, but an oral hearing was not requested. We affirm the refusal to register.

The Examining Attorney contends that "the mark PCDRAFT immediately conveys a significant purpose and feature of [applicant's] computer aided design software for use with personal computers (PC), [which is] to draft designs [on a PC]." The Examining Attorney states that "PC" is a common acronym for "personal computer"²; and he submitted a definition of "draft" as "a representation of something to be constructed."³

The Examining Attorney also submitted a printout of a page from applicant's website, June 9, 2000, wherein applicant describes its PCDRAFT software as follows:

A complete drafting design environment. That works the way you do. Easy to use. PC DRAFT will allow you to quickly create professional quality drawings. Just sit down and draw. The best way to port your MacDraft files to PC.

² In this regard, we take judicial notice of the definition in *The American Heritage Dictionary of the English Language*, Fourth Edition, 2000 of PC as "personal computer, i.e., a computer built around a microprocessor for use by an individual, as in an office or at home or school."

³ *The American Heritage Dictionary of the English Language*, Third Edition, 1992.

Additionally, the Examining Attorney submitted excerpts of articles retrieved from the LEXIS/NEXIS database which demonstrate use of the term "draft" in proximity to the term "computer aided design." Following are several examples:

Team New Zealand was the group that best capitalized on the benefits of computer-aided design technology - not only to draft boat specifications for various parts of its vessel, but also to test them by simulating real-world racing conditions. [*Computer Graphics World*, December 1, 1999.]

... and computer-aided design (CAD), in which graphics and visual software enable engineers to draft and manipulate designs on a terminal. [*Chief Executive (U.S.)*, March 1997.]

With the latest Computer-Aided Design, or CAD systems, engineers will be able to draft a design, measure its aerodynamics, even put it through crash tests. [*Investor's Business Daily*, June 15, 1993.]

... giving the bridge and structures office analytical capabilities that most other computer aided design and drafting (CADD) systems can't deliver. Since then, the combined flexibility to draft and design bridges, while conducting complex geometric calculations, has proven time and again to be of significant benefit. [*Public Works*, June 1993.]

This high resolution afforded by the use of 24-pin technology has made the dot-matrix printer a suitable output device for graphics and computer-aided design drafts ... [*PC Week*, August 1, 1988.]

Applicant contends that its mark is, at most, suggestive; that persons encountering the mark have no

way of knowing that the goods are a software product; and that PC also means "politically correct" and DRAFT also means "a breeze or light wind, a drink, to conscript a person for military or other service, and to draw liquid from a tap" (brief, p. 13). Applicant argues that, even if persons encountering the mark are aware that the product is a computer software program, the term "draft" in the mark does not inform them "whether the product is used for word processing - i.e., to prepare drafts of text documents such as letters, manuscripts and legal briefs - or whether it is designed to prepare other types of 'drafts,' such as, for example, to make pictures or graphic designs." (brief, p. 13.) Applicant states that, even if each of the individual terms PC and DRAFT are merely descriptive, which applicant does not concede, the combination of these terms is not merely descriptive. Applicant notes that the record contains no evidence of third-party use of the term PCDRAFT, and concludes that doubt should be resolved in favor of publication of the mark for opposition.

As applicant points out, the test for determining whether a mark is merely descriptive is whether the involved term immediately conveys information concerning a quality, characteristic, function, ingredient,

attribute or feature of the product or service in connection with which it is used, or intended to be used. *In re Engineering Systems Corp.*, 2 USPQ2d 1075 (TTAB 1986); *In re Bright-Crest, Ltd.*, 204 USPQ 591 (TTAB 1979). However, it is not necessary, in order to find a mark merely descriptive, that the mark describe each feature of the goods or services, only that it describe a single, significant quality, feature, etc. *In re Venture Lending Associates*, 226 USPQ 285 (TTAB 1985). Further, it is well-established that the determination of mere descriptiveness must be made not in the abstract, but in relation to the goods or services for which registration is sought, the context in which the mark is used, and the impact that it is likely to make on the average purchaser of such goods or services. *In re Recovery*, 196 USPQ 830 (TTAB 1977).

We agree with the Examining Attorney, and applicant does not disagree, that the mark PCDRAFT is likely to be perceived as a combination of the terms PC and DRAFT. The record clearly establishes that PC is a term commonly understood as a synonym for "computer," and that DRAFT, in the context of computer assisted design (CAD) software, merely describes both the act of designing and the finished product that results from using the

identified software. The combination of these two terms into the term PCDRAFT does not result in a different connotation than the connotations of the individual terms.

We find applicant's arguments to the contrary to be unpersuasive and, for the most part, based incorrectly on viewing PCDRAFT and the individual terms in a vacuum, without reference to the identified goods. Moreover, we do not find, and applicant provides no reason for its contention, that the combination of the two merely descriptive terms PC and DRAFT creates a registrable mark.

In the present case, it is our view that, when applied to applicant's goods, the term PCDRAFT immediately describes, without conjecture or speculation, a significant feature or function of applicant's goods, namely, that applicant's software is used to draft designs on a personal computer. Nothing requires the exercise of imagination, cogitation, mental processing or gathering of further information in order for purchasers of and prospective customers for applicant's services to readily perceive the merely descriptive significance of the term PCDRAFT as it pertains to applicant's goods.

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Decision: The refusal under Section 2(e)(1) of the Act is affirmed.